

Late Backup AMENDMENT OF RESTRICTIVE COVENANT FOR ZONING CASE NO. C14-86-301

Owner RKS Texas Investments, L P , a Texas limited partnership

Address 601 Sonterra Blvd San Antonio, Texas 78258

City The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas

City Council The City Council of the City of Austin

Consideration Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid by the Owner to the City of Austin, the receipt and sufficiency of which is acknowledged

WHEREAS, Springfield Joint Venture, a Texas joint venture, as owner of all that certain property described in Zoning File No C14-86-301, consisting of approximately 187 acres of land (the "Property"), as more particularly described in the restrictive covenant recorded in the Real Property Records of Travis County, Texas, in Volume 10416, Page 764, (the "Restrictive Covenant") imposed certain restrictions and covenants on the Property by the Restrictive Covenant of record

WHEREAS, the Restrictive Covenant provided that the covenant could be modified, amended, or terminated by joint action of both (a) a majority of the members of the City Council, and (b) the Owner of the property at the time of such modification, amendment or termination

WHEREAS, RKS Texas Investments, L P , a Texas limited partnership is the current owner (the "Owner") of the Property on the date of this Amendment of Restrictive Covenant (the "Amendment") and desires to amend the Restrictive Covenant as to the Property

WHEREAS, the City Council and the Owner agree the Restrictive Covenant should be amended

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreement hereinafter set forth, the City of Austin and the Owner agree as follows

- 1 Paragraphs 1 through 9 of the Restrictive Covenant are deleted in their entirety and the terms, conditions, and provisions set forth in Paragraphs 1 through 9 shall have no force or effect on the Property
- 2 Paragraphs 10 and 11 of the Restrictive Covenant are deleted in their entirety and the following provision is substituted and renumbered as Paragraph 1 in place of the provisions set forth under Paragraphs 10 and 11

1 Development of the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated November 28, 2007 attached as Exhibit "A" and incorporated into this Amendment

- 3 The Restrictive Covenant is amended to include as a renumbered Paragraph 2 the following provision

2 Development outside the 100-year floodplain area on Tract 5 may not exceed 12 units per acre

- 4 Except as expressly provided for in this Amendment, each and every one of the remaining terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall continue in full force and effect on and after the effective date of this Amendment

- 5 The City Manager, or her designee, shall execute, on behalf of the City, this Amendment of Restrictive Covenant for Zoning File No C14-86-301, as authorized by the City Council of the City of Austin. The Amendment of Restrictive Covenant shall be filed in the Official Public Records of Travis County, Texas

EXECUTED to be effective the _____ day of _____, 2008

OWNER:

**RKS Texas Investments, L.P.,
a Texas limited partnership**

By RKS Texas GP, LLC,
a Texas limited liability company,
its General Partner

By _____
Rick Sheldon,
President

CITY OF AUSTIN:

By _____
Laura J. Huffman,
Assistant City Manager,
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2008, by Rick Sheldon, President of RKS Texas GP, LLC, a Texas limited liability company, General Partner of RKS Texas Investments, L P , a Texas limited partnership, on behalf of the limited liability company and the limited partnership

Notary Public, State of Texas

THE STATE OF TEXAS §

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COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2008, by Laura J Huffman, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation

Notary Public, State of Texas

AFTER RECORDING RETURN TO

City of Austin Law Department
P O Box 1088
Austin, Texas 78767-1088
Attn Diana Mintei, Paralegal



Date November 28, 2007
To Wendy Rhoades, Case Manager
CC Ron Thrower, Thrower Design
Reference Restrictive Covenant Deletion Request for C814-86-301

Zoning case C14-86-301 covers 187.28 acres between Nuckols Crossing, Colton Bluff Springs Road, and Scenic Loop Drive. The restrictive covenant associated with this case includes land use restrictions (what would now be adopted as conditional overlays on the property) as well as financial provisions from a Traffic Impact Analysis that was conducted with the rezoning. Approximately 61 acres from this previous case are again being rezoned in zoning case C14-06-0215. This new zoning also required a Traffic Impact Analysis and fiscal postings for required transportation improvements.

The applicant for C14-06-0215 is requesting that the existing restrictive covenant for C14-86-301 be removed as much of the property under this restrictive covenant will need to comply with a new restrictive covenant that will be associated with C14-06-0215 and many of the improvements included in the older restrictive covenant have already been financed and/or constructed. While some improvements were made under the older zoning case, new improvements above and beyond what was previously agreed upon are being proposed with the updated TIA. Staff wants to ensure that the remaining tracts contribute funds to these additional improvements. Staff will support an amendment to the existing restrictive covenant under the following conditions:

- 1) The amended restrictive covenant will carry with the remaining tracts from C14-86-301. The applicant will provide new boundaries for C14-86-301 that remove the parcels being rezoned under C14-06-0215 and revise the older parcel boundaries as necessary.
- 2) The previous financial provisions from C14-86-301 will be removed and the new TIA and associated final memo dated July 11, 2007 from zoning case C16-06-0215 will now apply to the remaining properties from C14-86-301.
- 3) The applicant will provide updated pro-rata shares for the improvements agreed upon in the final memo dated July 11, 2007 for each of the remaining tracts for C14-86-301 (See Table 1).
- 4) Should any of the remaining tracts within zoning case C14-86-301 be developed at intensities greater than what was agreed upon with C14-86-301, staff will request an updated pro-rata share calculation and fiscal contribution for that tract.

TABLE 1

Intersection	Improvements approved with C14-06-0215A-D	C14-86-301 Balance of Tract Pro Rata %
McKinney Falls Pkwy / William Cannon Dr	Restripe EB shoulder to allow for 2 left turn lanes and 1 right turn lane	8 30%
	Restripe northern side of EB leg to allow 2 thru lanes	15 50%

Springfield Dr / William Cannon Dr	Install signal	14 80%
	Restripe WB leg for 1 left, 2 thru lanes and 1 right	14 90%
	Restripe EB leg for 1 left, 1 thru lane and 1 shared thru/right lane	15 70%
	Restripe SB leg for 1 left and 1 shared thru/right	0 00%
Running Water Dr / William Cannon Dr	Restripe EB leg for 1 U-turn lane, 2 thru lanes and 1 shared thru/right turn lane	22 80%
	Widen WB leg for 3 thru lanes and 1 left turn lane	0 00%
Salt Springs Dr / William Cannon Dr	Restripe WB leg for 1 left and 2 thru lanes	13 90%
Jane's Ranch Rd / William Cannon Dr	Restripe WB leg for 1 shared thru/right, 2 thru lanes and 1 left lane	17 90%
	Restripe shoulder on north side of EB leg for 3 thru lanes	15 60%
	Widen EB leg for third thru lane	0 00%
	Restripe EB leg for 1 left, 2 thru lanes and 1 shared thru/right lane	24 20%
Pleasant Valley Dr / William Cannon Dr	Add third EB lane	0 00%
	Restripe EB leg for 2 lefts, 2 thru lanes and 1 right turn lane	9 80%
McKinney Falls Pkwy / Colton-Bluff Springs Rd	Construct 4 lane collector on EB leg	100 00%
	Add WB right turn lane	6 60%
	Restripe WB leg for 1 shared left/thru lane	17 90%
	Widen NB leg for shared left/thru lane, 1 thru lane and 1 right turn lane	10 60%
	Add SB right turn lane	83 00%
Thaxton Rd / Salt Springs Rd	Widen Thaxton Rd for 4 lanes with 4-way stop	8 00%
	Add WB right turn lane	0 00%

If you have any questions or require additional information, please contact me at 974-3428



Amber Mitchell

Sr Planner - Transportation Review Staff

City of Austin - Watershed Protection and Development Review Department